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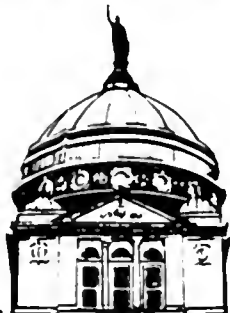
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The Monthly Report
of Legislative
Activity



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AUGUST 1990

HELENA, MONTANA

Vol. VII No. 14

ENVIRONMENTAL QUALITY COUNCIL

Meetings Aug. 2, 3, and 4 in Kalispell... The Environmental Quality Council will meet in Kalispell at the Outlaw Inn beginning at 1 p.m. Thursday, Aug. 2. The meeting will continue at 8 a.m. Friday, Aug. 3, and conclude with the third public hearing on log scaling practices Saturday, Aug. 4, from 9 a.m. to noon. On the agenda are:

¶ solid waste issues relating to the EQC's SJR 19 study, such as special wastes (tires, oil, household hazardous waste) and legislative options for integrated waste management;

¶ ground water protection issues relating to the SJR 22 study, including evaluation of funding, program administration, and local government's role in developing ground water information programs, as well as review of case study issues and options for septic systems and ground water management areas;

¶ a discussion of public water supply issues, including effects of new EPA regulations implementing the federal Safe Drinking Water Act amendments of 1986;

¶ continued discussion of issues and options relating to the rural development study; and

¶ discussion of the effectiveness of interaction of MEPA rules with environmental review of rural development.

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ADMINISTRATIVE CODE COMMITTEE

Action at June 29 meeting...At its meeting on June 29, the Administrative Code Committee:

¶ Unanimously voted to draft a committee bill to amend 2-4-110, MCA, to ensure that the review required by that section is done;

¶ Voted to write the Fire Marshall a letter thanking him for his cooperation regarding administration and enforcement of regulations governing the construction and sale of above-ground fuel storage tanks and thanking him for agreeing to not enforce an in-house policy prohibiting sale of the tanks unless an engineer certifies in writing that he has inspected the tanks and that they meet construction standards. The Fire Marshall will probably adopt, through MAPA, a rule on the enforcement of construction standards;

¶ Unanimously voted to inform SRS that the committee wants the department's rules to be timely adopted so the department will not have to continually use emergency rules and retroactively effective rules and to inform the department that further retroactive rules will automatically be placed on the agenda of the next committee meeting; and

¶ Voted to write attorney Larry Baer of Bigfork in response to his letter to the Chairman in which he accused the committee of failing to answer his request for an opinion on whether a permissive levy under 20-9-145, MCA, can only be by vote of the people. The letter is to inform him that two ACC staffers and two Legislative Council staffers have each independently researched the question in the past and given their answers to various persons in Baer's group of persons claiming that a vote is necessary and that the committee took up the question at the June 29 meeting, the first meeting held after the chairman received Baer's initial request for an opinion.

COMMITTEE ON STATE EMPLOYEE COMPENSATION

Consultant's Final Report Heard...The Committee on State Employee Compensation met for the sixth time on June 29, when the highlight of the

meeting was the final report and recommendations of Rollie Waters, the Committee's compensation consultant, who found that:

¶ the internal equity of the State's pay system had been compromised by the poor design of the job evaluation system and no consistent updating of position descriptions;

¶ salary survey results are not directly tied to rates of pay and salaries are determined more through collective bargaining than through a market-oriented process;

¶ individual equity has been compromised because movement within a pay range is determined only by years of service rather than ability or performance, and the range spreads are not large enough to allow for adequate pay increases; and

¶ the State has had no market-oriented or long-term strategy to improve the compensation system.

Waters recommended that the State:

¶ develop a new job evaluation classification system and rewrite the State's position descriptions, all with the involvement of management and labor;

¶ use salary survey data to make decisions regarding the maintenance of the pay structure and the amount of pay increases;

¶ establish a sufficient range spread for each pay grade to fairly reward performance; and

¶ define a market strategy centering around a five-year phase-in, initially adopting a 10% market lag policy and involving unity of purpose among all concerned factions of management and employees.

Following Waters' presentation and reports by the staff on different pay plan structures and the pay systems of other states, the Committee decided to develop recommendations to:

¶ set the pay structure's midpoint salaries at no further than 10% behind the market, and to move the structure to within 5% of the market in no more than five years.

¶ articulate a philosophy that competitive salaries attracting and retaining qualified employees is more important than compensation for years of service; and

¶ study different pay plan structures: graduated steps to a journey rate, graduated steps to an open range, and a single rate for lower grades with an open range for higher grades.

To Meet July 31...The Committee scheduled a meeting for July 31, in Room 104 of the Capitol from 9 a.m. to 4:15 p.m. The Committee is expected to discuss and take action on the pay structure options, shift differentials, hazardous duty pay, travel allowances, and the separate pay plan proposals submitted by union representatives.

Aug. 30 Meeting Planned...The Committee's August meeting is tentatively scheduled for Thursday, Aug. 30, in Room 104 of the Capitol from 9 a.m. to 4:30 p.m.

COMMITTEE ON INDIAN AFFAIRS

Varied Activities Planned Sept. 13...The Committee on Indian Affairs will hold its fourth meeting of the interim Thursday, Sept. 13, when the major topic will be Native Americans in urban Montana. Speakers will include Margie Bear Don't Walk of the Indian Health Board in Billings, Deanna Parisian from the Great Falls Public Schools, George Henkle of the Montana United Indian Association, and Anne MacIntyre of the Human Rights Commission. Bea Lunda, Indian Child Welfare Specialist with the Department of Family Services, will present a report to the Committee. The Committee will begin work at this meeting on its 1991 session legislative agenda which will be finalized at the final meeting in October. The meeting will begin at 10 a.m. in Room 104 of the Capitol.

POSTSECONDARY EDUCATION STUDY COMMITTEE

The Postsecondary Education Study Committee met July 13 and heard reports, including:

Lump Sum Appropriation Policy...The concept of allocating the

university system appropriation to the Board of Regents in a lump sum for reallocation to the university campuses and associated agencies was endorsed by the committee at its May 1990 meeting. At the July meeting, the Postsecondary Education Study Committee discussed mechanisms to enhance the legislature's ability to express its concerns and priorities to the Board of Regents if the lump sum appropriation concept is adopted by the 1991 legislature. The committee also discussed options for improving the communication of Board of Regent goals and priorities for postsecondary education to the legislature so funding needs can be evaluated. The committee recommended creation of a permanent interim committee composed of legislators, regents, and the commissioner of higher education to discuss budget and long range planning issues for postsecondary education. This would provide legislative input into the budget allocation process and provide a means for the legislative branch to communicate on a regular basis with the Board of Regents.

Vocational Technical Center Funding Decisions...After hearing a report summarizing options for funding the vocational technical centers in the 1993 biennium, the committee took the following action:

- ¶ to fund the instruction program with an equalized funding formula based upon historical factors;
- ¶ to fund the support program with an enrollment based formula;
- ¶ to fund plant and maintenance on an incremental basis; and
- ¶ to fund equipment via a per student formula for minor equipment and a uniform per center appropriation for capital equipment.

The committee also voted to appropriate the resulting total in a lump-sum to the Board of Regents for distribution to the individual centers.

Federal Carl Perkins funds are appropriated to the vocational technical centers as unrestricted funds to fund current operations. The Office of the Legislative Auditor recommended that the funds no longer be considered unrestricted funds, which the legislature specifically appropriates to each center, and instead be placed in the restricted subfund, which the legislature appropriates by language. The committee voted to separate federal Carl Perkins funds from the remainder of the budget and to leave to the 1991 legislature the issue of whether to reduce vo-tech's operating appropriation by a like amount or to replace the Carl Perkins funds with

other funds.

Corridor Funding...The committee also heard a report detailing options for applying corridor funding to the university units and the community colleges. Corridor funding is an enrollment-based appropriation method that incorporates ranges, rather than specific enrollments, to determine funding. The committee voted not to recommend to incorporate corridor funding at this time.

Fall Meeting Planned...The next meeting of the Postsecondary Education Study Committee is tentatively scheduled in late September or early October. An exact meeting date will be announced later.

REVENUE OVERSIGHT COMMITTEE

Aug. 4 Special Meeting...The Revenue Oversight Committee will hold a special meeting Saturday, Aug. 4, in Room 108 of the Capitol to consider the recent out-of-court settlement between the Department of Revenue and several railroads (including Burlington Northern, Montana Rail Link, Union Pacific, and Soo Line) on the railroads' property tax liability for tax years 1989 and 1990. The Committee will consider the distribution mechanism developed by the department to allocate 1990 railroad tax revenue based on 1989 mill levies. This distribution will have an effect on school funding for the current year.

Next meeting scheduled for Sept. 27 and 28...The Revenue Oversight Committee will meet Sept. 27 and 28 in Room 108 of the Capitol Sept. 27 and 28 when a portion of the business will involve a joint meeting with the Legislative Oversight Committee on School Funding Implementation to consider issues related to the guaranteed tax base.

Agenda items for regular Committee business will include:

- (1) LFA staff report on the forecasting methods for property tax collections;
- (2) LFA staff update on fiscal 1990 revenue collections;
- (3) ROC staff report on estimated revenue potential from a general sales tax;
- (4) Report on local production taxes on coal, oil, and natural gas

required by Senate Bill No. 1, enacted during the May 1990 Special Session;

(5) Revenue and taxing implications of imposing a productivity tax on forest lands in place of the current standing inventory method; and

(6) Department of Revenue reports.

JOINT INTERIM SUBCOMMITTEE ON ADULT AND JUVENILE DETENTION

Tour of Detention Facilities... Meeting in Billings. the Joint Interim Subcommittee on Adult and Juvenile Detention on the morning of June 28 toured the Yellowstone County jail, a 136-bed facility, by far the largest jail in the state. Sheriff Mike Schafer described the operation of the jail and current jail problems in Yellowstone County, including overcrowding and lack of funding for operations. He also discussed the potential impact of state jail standards and the potential for using the county jail as a regional detention facility. The Subcommittee also visited the Yellowstone County Youth Services Center, until recently the only juvenile detention facility in the state. It is a multi-use, secure detention facility which is considered a model for establishment of juvenile detention facilities.

Video telecom arraignments... US West Communications made a presentation on video telecom court arraignments, which use two-way video and audio equipment that allow a judge to arraign a criminal defendant without transporting the defendant from the jail to the courthouse. According to US West, the technology for telecom arraignments is available in Montana and could be used to facilitate the establishment of regional jails.

Options for legislation... Following the presentation by US West, the Subcommittee opened two days of hearings on options for legislation to address the major issues relating to the interim study on adult and juvenile detention including: the removal of juveniles from adult jails and other detention facilities; jail overcrowding; substandard jails; jailing of the mentally ill in the county jail; and the lack of funding for local needs, including funding for local jail improvements and the construction of new jails. The Subcommittee approved the following options for further study:

A. Options for removal of juveniles from adult jails and other facilities:

(1) Establish regional detention facilities for juveniles in which the federal, state, and county governments share in the cost of services.

(2) Provide "holdover" services and a program for the transportation of juveniles to regional detention facilities.

(3) Provide state assistance for juvenile detention programs based on approval local plans for providing juvenile detention services, including alternatives to detention.

(4) Amend state law to prohibit the detention of juvenile status offenders in an adult jail or other secure detention facility.

(5) Limit the detention of juveniles accused of nonstatus, criminal offenses to 6 hours in an adult jail pending an initial court appearance, and prohibit the pretrial detention of status offenders in an adult jail.

(6) Prohibit placement of predispositional youth for 45-day evaluations in the state's youth correctional facilities at Pine Hills and Mountain View.

B. Options to address current problems affecting local jails:

(1) Establish state jail standards and require regular inspection of local jails.

(2) Encourage establishment of regional jails by: (a) clarifying the laws relating to use of multi-county jail bonds; (b) allowing counties to create regional jail authorities; and (c) providing state funding to assist counties in establishing regional or multicounty jails.

(3) Authorize arraignment of criminal defendants via a video, telecommunications conference proceeding.

(4) Require the medical costs of jail inmates to be paid by persons who are financially able to pay and, if an individual is indigent, require the arresting agency to pay the cost of the individual's medical care while in jail except in state-assumed welfare counties, where medical costs would be paid by the state General Assistance Program.

(5) Require city police departments to pay a portion of the cost of

incarcerating prisoners in the county jail, and, for this purpose, authorize county jails to assess a booking fee.

(6) Reduce the pretrial jail population by providing speedier resolution of court cases through:

(a) early review and screening of criminal court cases to determine which cases might lead to early disposition or release of the defendant; (b) imposition of time limits for arraignment and prosecution of cases involving pretrial defendants who are held in jail; and (c) expediting prosecution of defendants if they are held in jail for long periods of time.

(7) Alleviate jail overcrowding by limiting the use of incarceration for low-risk, misdemeanor offenders and by providing greater alternatives to incarceration.

(8) Reduce jail overcrowding and decrease the demand for new jail construction by decriminalizing all minor traffic offenses.

(9) Provide for garnishment and attachment of property for persons who fail to pay traffic tickets or fines rather than confining them in jail, and allowing an individual who is unable to pay, to perform community service work.

(10) Provide for treatment in lieu of incarceration for DUI offenders and authorize tougher penalties for repeat DUI offenders, including the seizure of license plates or motor vehicles at the time of arrest for a repeat DUI offense, and authorize the use of ignition interlock devices and home detention for DUI offenders.

(11) Divert mentally ill persons who commit minor offenses from jail, and prohibit the detention of mentally ill persons in jail pending a civil commitment hearing.

(12) Provide state aid to local governments for construction of regional jails and provide state reimbursements for state prisoners housed in local jails.

C. Options for funding local needs:

(1) Impose a "penalty assessment" or "fee assessment" on individuals for conviction of a crime other than a nonmoving, parking violation.

(2) Authorize a permissive levy for local jails.

(3) Authorize local option taxes for jail and detention programs.

(4) Dedicate a portion of lottery proceeds to fund juvenile detention programs.

(5) Add a surcharge on licensing for video gambling machines.

(6) Appropriate federal juvenile justice grant money for programs to remove juveniles from adult jails.

These and other options are outlined in a 101-page committee discussion paper entitled "Adult and Juvenile Detention: Issues and Options" which is available from the Legislative Council. Legislation is being drafted to implement these options. This legislation will be presented to the Subcommittee at its next meeting.

Next meeting...The Subcommittee plans a two-day meeting in Missoula in late August need for a new jail in Missoula County will be reviewed and public hearings held to discuss draft legislation to address the major study issues.

JOINT LEGISLATIVE COMMITTEE ON ACCOUNTABILITY AND QUALITY IN EDUCATION

Basic Education Definition Discussion...The Committee on Accountability and Quality in Education will meet Friday, Sept. 7, to discuss the definition of a basic system of education. The Committee will take public testimony from interested persons and organizations. The meeting will begin at 9 a.m. in Room 108 of the State Capitol.

LEGISLATIVE COUNCIL

Classification and Pay Plan Reviewed...At the Legislative Council's meeting on June 29 the principal business was review of a classification and pay plan for Council staff. Staff and a Council subcommittee have been working to develop a plan to answer a number of problems that have

existed for many years. The full Council voted not to implement the plan. The Council asked its subcommittee to work with other legislative agencies to see if there is interest in developing a common pay plan for all legislative branch agencies. The subcommittee met with the directors of all legislative agencies to discuss this proposition. Pending additional work by the subcommittee, the Council may consider this issue further in later meetings.

Staff Departures...Several long time staff members of the Legislative Council have recently left the office or have announced their plans to leave. Helen MacPherson retired and moved to Annapolis, MD, to be nearer her grandchildren. Mary McCue has announced plans to enter private legal practice in Helena. Mary Conklin will soon join her husband who has recently transferred to Kalispell. Karen Caplis left the staff for personal reasons. Whether you worked closely with any of these staff members or not, they were key parts of our support to you, and they will be missed.

Service Awards...The Council recognized the value of its senior staff by awarding pins at the June 29 meeting to:

15 YEARS: Bob Person, Marilyn Novak, and Phyllis Cote.

10 YEARS: Helen MacPherson, Ellen Garrity, Andrea Merrill, Lois Menzies, Paul Verdon, Greg Petesch, Lee Heiman, Doug Sternberg, Nadine Wallace, Connie Dixon, Mary Ellen Randall, and Kathy Thompson.

5 YEARS: Amy Clark, Marsha Sager, Dave Bohyer, Tom Gomez, Mary Conklin, John MacMaster, Valencia Lane, Mary McCue, Karen Caplis, Hank Trenk, Kevin Hayes, Ann Sigouin, Carol Ann Jacobsen, and Tom Mulvaney.

Budget Review...The Council will meet on Aug. 23 when review of the Council budget will be among the most important topics. Through its budget, the Council supports a wide variety of legislative activities. Members with views or questions on any aspect of the budget should contact a member of the Council or the executive director.

LEGISLATIVE COUNCIL LIBRARY:

The Library has received nearly all Special Session II (May 1990)

committee

minutes. Fiche sets should be ready for distribution by the end of August.

RESEARCH DIVISION:

Research Reports

¶ Montana Legislative Committee Minutes: Significance, History and Components

¶ Separate Pay Plan Proposals Issue Summary

LEGISLATIVE FINANCE COMMITTEE

Reports Set Aug. 3 and 4...The Legislative Finance Committee will meet on August 3-4 to hear reports concerning optional medicaid services, proposed reorganization of the Department of Institutions, highway funding, and Montana's Capital Company Act. The staff will update the Committee on fiscal 1990 revenues, reversions, and supplementals. An evaluation of the new executive budgeting system will also be presented to Committee members.

WATER POLICY COMMITTEE

Meeting Sept. 6 and 7...The Water Policy Committee will meet Sept. 6 and 7 in the Capitol Building. Tentative agenda items include an update on the water leasing study, a discussion of the water research recommendations, and a continuing evaluation of federal and state relations in water management.

JOINT INTERIM SUBCOMMITTEE ON MARKETING OF MOTOR FUELS

Attorney General to Speak...The meeting of the Joint Interim Subcommittee on Marketing of Motor Fuels on Thursday, Aug. 9, will feature an appearance by Attorney General Marc Racicot. He was invited by the Subcommittee to explain the needs of the Department of Justice in

regard to enforcement of the anti-trust and consumer protection laws and particularly the enforcement of the provisions of Title 82, chapter 15, part 2, MCA, prohibiting discrimination in the pricing of petroleum products.

Review of Draft Bills...As requested at the last meeting, the staff will submit for the Subcommittee's consideration drafts of bills to:

- ¶ prohibit below-cost sales of motor fuels;
- ¶ require open supply for motor fuels dealers;
- ¶ establish a gasoline dealer's bill of rights;
- ¶ establish a Montana law based on the federal Robinson-Patman Act;
and
- ¶ divorce refining and marketing sectors of the petroleum industry.

Meeting Opens at 10 a.m....The meeting will begin at 10 a.m. in Room 104 of the Capitol.



INTERIM CALENDAR

Aug. 2 and 3, Environmental Quality Council, Outlaw Inn, Kalispell

Aug. 3 and 4, Legislative Finance Committee, 9 a.m., Room 104

Aug. 9, Joint Interim Subcommittee on Marketing of Motor Fuels, Room 104, 10 a.m.

Aug. 23 and 24, Legislative Council, Room 104

Aug. 30, Committee on State Employee Compensation

Sept. 6 and 7, Water Policy Committee, Room 104

Sept. 7, Joint Legislative Committee on Accountability and Quality in Education, Room 108

Sept. 7-9, Western States Legislative Forestry Task Force, Kananaskis, Alta.

Sept. 13, Committee on Indian Affairs, Room 104

Sept. 27 and 28, Legislative Oversight Committee on School Funding Implementation, Room 104

Sept. 27 and 28, Revenue Oversight Committee, Room 108

Oct. 1, Coal Tax Oversight Subcommittee, Room 104, 10 a.m.

Oct. 4, Committee on State Employee Compensation

Oct. 6, Joint Legislative Committee on Accountability and Quality in Education, Room 104

Oct. 8, Columbus Day, Holiday

Oct. 11, Committee on Indian Affairs, Room 104

Nov. 6, General Election, Holiday

Nov. 9, Water Policy Committee, Room 104

Nov. 12, Veterans Day, Holiday

Nov. 16, Revenue Oversight Committee, Room 104

Nov. 22, Thanksgiving Day, Holiday

Nov. 23, Heritage Day, Holiday

Nov. 27, Water Policy Committee, Room 104

Dec. 6 and 7, Environmental Quality Council, Room 108

Dec. 7, Revenue Oversight Committee, Room 104

Dec. 25, Christmas, Holiday

Jan. 1, New Year's, Holiday

Jan. 7, 52nd Legislature Convenes

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